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FULL APPEALS COURT TO DECIDE IF SECRET INFORMATION OF USE IN TRIAL  
RICHMOND, VA.

A federal appeals court will hear arguments on whether classified information may be used in the trial of a former Army counterintelligence specialist accused of passing information to a Soviet KGB officer.

The 4th U.S. Circuit Court of Appeals granted the hearing in a decision Thursday, but no date was set.

However, an attorney for Richard Craig Smith, 41, of Bellevue, Wash., said the hearing probably would be held June 4.

Smith, who had worked as a civilian and a sergeant for the Army Security and Intelligence Command, was accused last year of disclosing the identities of six U.S. double agents to a KGB officer stationed in Tokyo for \$11,000.

Smith has not disputed that he passed on the information, but he claimed at pre-trial hearings in U.S. District Court in Alexandria, Va., that he was working secretly for the CIA, and that his intent was to give the Soviets outdated and unimportant information in order to become a double agent for the United States.

The appeals court's ruling Thursday was the latest in a series of pretrial battles between the government and Smith's defense lawyers.

The court will rehear the issue of whether the defense is entitled to use classified evidence at Smith's trial, according to Smith's attorney, William B. Cummings.

Much of the dispute over the classified information centers over records regarding the CIA-related activities of a defunct Honolulu investment firm.

U.S. District Judge Richard L. Williams agreed that Smith could use the material, but the government appealed on grounds the information could damage national security.

However, in December a three-judge panel of the 4th Circuit appeals court said the government had failed to specify how that could be the case, and "without this information, the court was ill-equipped...to balance the harm to the national security against the relevance of the evidence."

The government appealed again.

If convicted, Smith could be sentenced to life imprisonment. He has pleaded innocent and is free on \$500,000 bond.